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Pre-ruling Consultation with the Canada Revenue Agency (CRA): a little-known yet practical service

March 31, 2021

Canada's tax system is very complex and tends to become more complex over time. Amendments to tax laws in recent years have not simplified our tax system, quite the contrary. The introduction of various intention tests in tax laws has also further increased tax authorities' discretion as to the application of such laws.

In this context, it is often a good idea to obtain the Canada Revenue Agency's ("**CRA**") advice on the application of tax laws to proposed transactions. Given that the CRA is responsible for applying the Income Tax Act (the "**ITA**") and other legislation, some Canadian taxpayers would be well advised to ensure that the CRA will agree with their interpretation of the ITA in the context of a proposed tax plan or transaction. Getting the CRA's opinion will help to steer clear of differences in opinion that could lead to lengthy and costly debates.

The CRA has long offered Canadian taxpayers the opportunity to consult it before proceeding with tax plans or transactions. The two best known mechanisms for doing so are requests for a Technical Interpretation and requests for a Ruling. As a request for a Technical Interpretation is made anonymously, the resulting interpretation as to the application of the ITA is not binding on the CRA, and it requires a considerable amount of time to obtain. A request for a Ruling, on the other hand, requires identification of the parties and details of the proposed tax plan or transaction, and the resulting Ruling will bind the CRA to certain conditions. It is also faster to obtain. The CRA charges a fee to render a Ruling, but does not charge one for a Technical Interpretation.

There is, however, a third, lesser-known mechanism available to taxpayers: a Pre-ruling Consultation. Some of its advantages include:

> Faster feedback for taxpayers as to the likelihood that the CRA will render the Ruling sought.
> Lesser preparation costs, as a Pre-ruling Consultation request requires less information than a request for a Ruling.
> Lower fees to be paid to the CRA in cases where the CRA believes that it cannot render the Ruling a taxpayer is seeking.

The use of the Pre-ruling Consultation service will often be the best way to begin the request for a Ruling process. By using the service, taxpayers can quickly determine, at a relatively low cost, whether they should engage in the request for a Ruling process. The service isn't a substitute for obtaining such a Ruling, however, as a Ruling has the advantage of binding the CRA with respect to the tax consequences of a proposed tax plan or transaction.

Our taxation team can guide you and answer your questions regarding the services that the CRA

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